

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

JAMES RICHARD LENING,

Petitioner,

v.

WARDEN JERRY LESTER,

Respondent.

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Case No. 3:13-cv-00517

Judge Campbell

ORDER

Before the Court is petitioner James Richard Lening's Motion to Place Cause in Abeyance in Order to Exhaust Administrative Remedies in State Court and Due to Medical Issues (ECF No. 9). In response to the Court's order directing him to supplement his motion by explaining what further state action he was pursuing and his estimation of how long it would take, the petitioner failed to provide any further factual support, but he requested in the alternative a continuance of "an additional (40) forty-five days [sic]."¹ (ECF No. 19, at 1.)

The respondent has submitted a response informing the Court that the petitioner's appeal of the dismissal of his state habeas petition is currently pending before the Tennessee Court of Criminal Appeals. *Lening v. State*, No. W2013-01648-CCA-R3-HC (Tenn. Ct. Crim. App.), filed July 19, 2013. (See ECF No. 20-1.) In light of the pendency of this appeal, and despite the petitioner's failure to demonstrate any relationship between his pending state-court appeal and his federal habeas claims, the respondent does not oppose the petitioner's motion for a stay pending the outcome of his appeal, or the alternative request for a continuance.

The Court finds it unlikely that the petitioner's recently filed state appeal will be resolved within forty-five days, such that a continuance of that length of time would not be sufficiently long. Accordingly, the petitioner's unopposed motion to stay and abey these proceedings pending the resolution of his state-court appeal (ECF No. 9) is **GRANTED**.² The Clerk is **DIRECTED** to administratively close this file while the matter

¹ The Court construes this as a request for a continuance of forty-five days.

² The Clerk is **DIRECTED** to terminate the motion at ECF No. 10, as that motion is duplicative of the motion at ECF No. 9.

is held in abeyance.

However, the petitioner **MUST** submit a status report to the Court every 6 months (by March 15, 2014, and September 15, 2014, if applicable) while his state proceeding remains pending, notifying the Court as to what action, if any, has occurred in the state appeal during the intervening period. In addition, the petitioner **MUST** give notice to this Court of his desire to re-open the case within **30 days** after the final resolution of his state appeal. The petitioner's failure to keep the Court apprised of the status of his state-court proceedings or to promptly move to re-open this case following resolution of the state-court appeal may result in the dismissal of this action. Finally, the petitioner **MUST** at all times keep the Court informed of his current address.

It is so **ORDERED**.

A handwritten signature in black ink that reads "Todd Campbell". The signature is written in a cursive, slightly stylized font. The "T" is large and loops around the "o". The "C" is also large and loops around the "a". The "p" and "b" are connected, and the "e" is a simple loop. The "l" is a simple vertical stroke.

Todd Campbell
United States District Judge